

JUDGE OETKEN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**13 CV 5983**

HOODLOVE, LLC

Civil Action No. \_\_\_\_\_

Plaintiff,

vs.

COMPLAINT & JURY DEMAND

ROC APPAREL GROUP, LLC, ICONIX

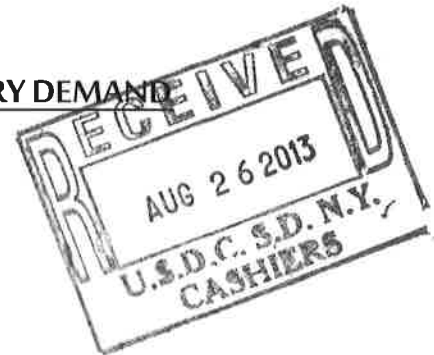
BRAND GROUP, INC.,

CITI TRENDS, INC.,

DILLARD'S INC. and

MODECRAFT FASHIONS,

Defendants.



Plaintiff HOODLOVE, LLC ("Plaintiff"), through its undersigned attorneys,

complain of defendants ROC APPAREL GROUP, LLC ("ROC APPAREL"), ICONIX BRAND

GROUP, INC. ("ICONIX"), CITI TRENDS, INC., DILLARD'S INC. and MODECRAFT

FASHIONS, as follows:

**NATURE OF THE ACTION**

1. This is a straightforward action for trademark infringement, dilution, unfair competition and false advertising, all in violation of the laws of the United States and the State of New York.

**JURISDICTION AND VENUE**

2. Plaintiff's claims are predicated on the Trademark Act of 1946, as amended, 15 U.S.C. §§1051-1141, and under the statutory and common law of the State of New York. Subject matter jurisdiction over this action is conferred upon this Court by 15 U.S.C. §1121 and 28 U.S.C. §§1331 and 1338 (a) and (b). Additionally, the Court has supplemental jurisdiction over Plaintiff's state-law claims under 28 U.S.C. §1367.

3. Venue in this District is proper under 28 U.S.C. §1391 (b) and (c).

4. This Court has personal jurisdiction over Defendants under New York Civil Practice Law and Rules 301 and 302(a) because, upon information and belief, Defendants do business and solicit business in this District, regularly solicit business in

New York, offered goods under the infringing trademark to customers in this District, Defendants ROC APPAREL and ICONIX, are registered to do business in this District, and Plaintiff is being harmed in this District.

### PARTIES

5. Plaintiff is a limited liability company organized and existing under the laws of the State of New Jersey, with a principal place of business in the State of New Jersey.

6. Upon information and belief, Defendant ROC APPAREL is a limited liability company organized and existing under the laws of New York and is registered to do business in New York.

7. Upon information and belief, Defendant ICONIX, is a corporation organized and existing under the laws of Delaware and is registered to do business in New York.

8. Upon information and belief, Defendant CITI TRENDS, INC. is a corporation organized and existing under the laws of Delaware and at all relevant times was doing business in the State of New York.

9. Upon information and belief, Defendant DILLARD'S, INC. is a corporation organized and existing under the laws of Delaware and at all relevant times was doing business in the State of New York.

10. Upon information and belief, Defendant MODECRAFT FASHIONS, is an entity of unknown form and at all relevant times, was doing business in the State of New York.

11. The true names and capacities, whether individual, corporation, associate or otherwise of defendants JOHN DOES 1 through 10, inclusive, are unknown to Plaintiff who therefore sues said defendants by such fictitious names. Plaintiff is informed and believes and based thereon alleges that each of the fictitiously named defendants is responsible in some manner for the events, acts, occurrences and liabilities

alleged and referred to herein. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of these JOHN DOE defendants when the same are ascertained.

### **GENERAL ALLEGATIONS**

#### **A. Plaintiff And The Hood Love Trademark**

11. Plaintiff is a for-profit company that focuses on the social and economic development of poverty stricken communities commonly known as “the hood”. Plaintiff is the owner of the federally registered trademark “Hood Love” in connection with clothing (“the HOOD LOVE Mark”). A true and correct copy of Plaintiff’s Certificate of Registration for the HOOD LOVE Mark is attached hereto as Exhibit “A”.

#### **B. Defendants And Their Infringement Of The Hood**

##### **Love Mark**

12. Upon information and belief, Defendant ROC APPAREL distributes and sells clothing in connection with a brand called "Rocawear" by virtue of a license from Defendant ICONIX and/or its affiliates or subsidiaries.

13. Upon information and belief, Defendant ICONIX and/or its affiliates or subsidiaries operates the website "rocawear.com".

14. Defendants ROC APPAREL and ICONIX state on the rocawear.com website that: "Rocawear is an exclusive lifestyle brand with a wide range of customers launched by superstar icon Jay-Z, founder of Roc-a-Fella Records".

15. Upon information and belief, Jay-Z continues to have a relationship with Rocawear, which includes promotion of Rocawear on his official website "rocnation.com".

16. Notwithstanding Plaintiff's rights in and to the HOOD LOVE Mark, Defendants misappropriated the HOOD LOVE Mark to promote and sell apparel ("Infringing

Apparel”) on the rocawear.com website and elsewhere without Plaintiff’s consent or authorization.

**COUNT I**

**Federal Trademark Infringement**

17. To the extent applicable, Plaintiff incorporates the allegations hereinabove as though fully set forth herein.
18. Defendants’ offer to sell, sale, distribution, and advertisement of products under the Infringing Apparel violates Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1).
19. The HOOD LOVE Mark is federally registered, and is entitled to protection under both federal and common law.
20. Defendants’ unauthorized use of the Infringing Apparel is likely to cause confusion, to cause mistake, and to deceive customers and potential customers as to the source or origin of Defendants’ goods, and to cause them to mistakenly believe that Defendants’ goods are Plaintiff’s goods, or are otherwise affiliated, connected, or

associated with Plaintiff in violation of Section 32(1) of the Lanham Act, 15 U.S.C.

§1114(1).

21. Defendants' unauthorized use of the Infringing Apparel has caused, and unless enjoined, will continue to cause substantial and irreparable harm to Plaintiff, including without limitation, substantial and irreparable harm to the goodwill associated with the HOOD LOVE Mark.

22. Upon information and belief, Defendants' infringement of the HOOD LOVE Mark is willful and reflects Defendants' intent to trade on the goodwill associated with the HOOD LOVE Mark.

23. Plaintiff is entitled to injunctive relief, and also entitled to recover its costs, reasonable attorneys' fees, and Defendants' profits under 15 U.S.C. §§1114, 1116, 1117.



**COUNT II**

**False Designation of Origin And Unfair Competition**

24. To the extent applicable, Plaintiff incorporates the allegations hereinabove as though fully set forth herein.

25. Defendants' offer to sell, sale, distribution, and advertisement of goods under the Infringing Apparel constitutes unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

26. The HOOD LOVE Mark, is entitled to protection under both Federal and common law.

27. Defendants' unauthorized use of the Infringing Apparel constitutes unfair competition and the use of a false designation of origin that is likely to cause confusion and deceive consumers as to the impression that Defendants' products are manufactured by, authorized by, or otherwise associated or affiliated with Plaintiff in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

28. Upon information and belief, Defendants' conduct complained of herein is willful and reflects Defendants' intent to trade on the goodwill associated with the HOOD LOVE Mark.

**COUNT III**

**Trademark Infringement in Violation of New York**

**Common Law**

29. To the extent applicable, Plaintiff incorporates the allegations herein above as though fully set forth herein.

30. Defendants' offer to sell, sale, distribution, and advertisement of goods under the Infringing Brand constitutes common law trademark infringement.

31. The HOOD LOVE Mark is used in New York and elsewhere extensively, and is entitled to protection under both Federal law and New York common law.

32. Defendants' unauthorized use of the Infringing Apparel is likely to cause confusion and deceive consumers as to the origin, sponsorship, or approval of

Defendants' products by creating the false and misleading impression that Defendants' products are manufactured by, authorized by, or otherwise associated with Plaintiff.

33. Defendants' unauthorized use of the Infringing Apparel has caused, and unless enjoined, will continue to cause substantial and irreparable injury to Plaintiff for which it has no adequate remedy at law, including substantial and irreparable injury to the goodwill associated with the HOOD LOVE Mark.

34. Upon information and belief, Defendants' infringement of the HOOD LOVE Mark is willful and reflects Defendants' intent to trade on the goodwill associated with the HOOD LOVE Mark.

35. Upon information and belief, Defendants' infringement of the HOOD LOVE Mark has been deliberate and calculated, resulting in confusion and deception among consumers as to the origin, sponsorship, or approval of Defendant's products, and resulting in damage to Plaintiff.

36. Defendants' acts constitute trademark infringement in violation of the common law of the State of New York.

#### COUNT IV

##### Unfair Competition in Violation of New York Common Law

37. To the extent applicable, Plaintiff incorporates the allegations hereinabove as though fully set forth herein.

38. Upon information and belief, with knowledge of the distinctiveness of the HOOD LOVE Mark, Defendants intended to and did trade on the goodwill associated with the HOOD LOVE Mark by manufacturing, distributing, promoting and selling products using the HOOD LOVE Mark under the Infringing Apparel.

39. Defendants' acts as alleged herein are likely to cause confusion, mistake, and deception to consumers as to the affiliation, connection, or association of Defendants with Plaintiff, and as to the origin, sponsorship, or approval of Defendant's products

under the Infringing Apparel, all to the detriment and damage of Plaintiff and to the unjust enrichment of Defendants.

40. Defendant's unauthorized use of the Infringing Apparel, unless enjoined, will cause substantial and irreparable injury to Plaintiff for which it has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill associated with the HOOD LOVE Mark.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for relief, and respectfully requests that the Court:

- a) enjoin Defendants, their agents, servants, employees, and affiliates from engaging in trademark infringement, dilution, and passing off in each state in which the Defendants do business;
- b) require Defendants, their agents, servants, employees, affiliates, licensees, and assignees to account for all sums collected because of manufacturing, distributing, selling and/or otherwise exploiting the trademarks at issue herein;

- c) award Plaintiff punitive damages for the conduct complained of herein;
- d) award Plaintiff its attorneys' fees, taxable costs and disbursements of this action under 15 U.S.C. §1117 and Section 35 of the Lanham Act, in light of Defendants' willful conduct; and
- e) award Plaintiff any further relief as justice may require, or as this Court deems necessary.

JURY DEMAND

Plaintiff hereby demands trial by jury on all matters so triable herein.

DATED: August 23, 2013

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*Attorneys for Plaintiff*

# EXHIBIT A



# United States of America

United States Patent and Trademark Office

## HOOD LOVE

**Reg. No. 3,786,293**

**Registered May 4, 2010**

**Int. Cl.: 25**

**TRADEMARK**

**PRINCIPAL REGISTER**

HOODLOVE LIMITED LIABILITY COMPANY (NEW JERSEY LIMITED LIABILITY COMPANY)

160 GREENWOOD AVENUE  
EAST ORANGE, NJ 07017

FOR: BASEBALL CAPS; CAPS; HATS; HEADWEAR; SHIRTS; SHORT-SLEEVED OR LONG-SLEEVED T-SHIRTS; SWEAT SHIRTS; T-SHIRTS; TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-0-2006; IN COMMERCE 4-0-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 78-861,589, FILED 4-14-2006.

BARBARA BROWN, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office

**EXHIBIT A**

Court Name: District Court  
Division: 1  
Receipt Number: 465401075321  
Cashier ID: Lcortis  
Transaction Date: 08/26/2013  
Payer Name: KRANJAC TRIPODI AND PARTNERS

CIVIL FILING FEE  
For: KRANJAC TRIPODI AND PARTNERS  
Amount: \$400.00

CHECK  
Check/Money Order Num: 30355711  
Amt Tendered: \$400.00

Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00